

Document Page 1 of 7
UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

In Re:

ADAM KENNETH STEVENS and
HEATHER LEIGH STEVENS,

Debtors,

Bankruptcy Case No. 3-09-16401-rdm, Chapter 7
Adversary Proceeding No: _____

COUNTY OF LA CROSSE,

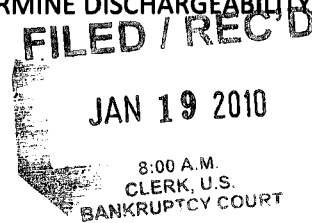
Plaintiff,

COMPLAINT TO DETERMINE DISCHARGEABILITY
OF DEBT

v.

ADAM KENNETH STEVENS and
HEATHER LEIGH STEVENS,

Defendants.



JURISDICTION AND VENUE

This a proceeding brought by the plaintiff County of La Crosse to determine dischargeability of payments that the debtor Heather Leigh Stevens was ordered to make to the County of La Crosse pursuant to an order in a paternity action in the La Crosse County Circuit Court. Jurisdiction of this proceeding is conferred on this Court by 28 U.S.C. Section 1334(b), 28 U.S.C. Section 157(a), 11 U.S.C. Section 523(c) and Fed. R. Bankr. P. 7001(6). This proceeding is a core proceeding pursuant to 28 U.S.C. Section 157(b)(1). This Court is the appropriate forum for venue of this matter.

CLAIM

1. Plaintiff County of La Crosse is a body corporate organized and existing under the laws of the State of Wisconsin with offices at 400 N. 4th Street, La Crosse, WI 54601.
2. Defendant Heather Leigh Stevens is a debtor in this Chapter 7 bankruptcy case and resides at 309 South Walker Street, Adams, WI 53910.
3. Defendant Adam Kenneth Stevens is a debtor in this Chapter 7 bankruptcy case and resides at 309 South Walker Street, Adams, WI 53910.
4. On August 3, 2009, the Honorable Dale T. Pasell, Circuit Court Judge, La Crosse County, Wisconsin, ordered La Crosse County to pay for the total costs and expenses of the Custody Assessment Team of \$3,993.67. The Court further ordered that Heather Stevens shall reimburse La Crosse County for the entire amount disbursed in accordance with arrangements to be established by La Crosse County and that La Crosse County would be entitled to be granted judgment for the amounts. The Custody Assessment Team is composed of a guardian ad litem, Bennett Meyers from Bosshard Parke, Ltd., a County representative from Mediation and Family Court Services, and Kimberly Erickson-Nichols, a child development specialist from Franciscan Skemp Behavioral Health. (A copy of the order is attached hereto as Exhibit "A")

5. All of these obligations were intended by the parties to be in the nature of support and were necessary for the support of the minor child.

6. Discharge of these obligations would cause detriment to the plaintiff since the County would be fully liable for payment of these expenses necessary for the child in the underlying paternity proceeding.

7. All of these obligations are non-dischargeable under 11 U.S.C. Section 523(a)(5) in the debtors' bankruptcy case.

WHEREFORE, plaintiff requests that this Court enter a judgment:

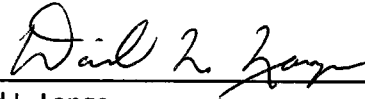
1. Declaring that the aforesaid obligations are not dischargeable in this bankruptcy case or any other bankruptcy case filed by the debtor Heather Stevens; and

2. Granting such other relief as is just and proper.

Dated this 14th day of January, 2010.

LA CROSSE COUNTY

By: _____



David L. Lange
Deputy Corporation Counsel
State Bar ID No. 1001937
400 N. 4th Street
La Crosse, WI 54601-3200
(608) 785-9577

STATE OF WISCONSIN

CIRCUIT COURT
Family Court Branch

LA CROSSE COUNTY

In re the Paternity of GMS:

Paul Charles Sobkowiak,

Petitioner,

-and-

Heather Leigh Zimmerly,
n/k/a Heather L. Stevens

Respondent.

La Crosse County WI
FILED

AUG 24 2009

PAMELA RADTKE
CLERK OF COURTS

AUG 14 2009

Case No. 05-PA-147

ORDER FOR FEES AND DISCHARGE OF CUSTODY ASSESSMENT TEAM

This matter came on for hearing before the Honorable Dale T. Pasell, Family Court Commissioner, on the 3rd day of August, 2009. Petitioner's attorney, Mark Huesmann, of HUESMANN LAW OFFICE, S.C., 501 Empire Street, Suite 102, P.O. Box 50, Holmen, WI 54636-0050 appeared in person. Petitioner, Paul C. Sobkowiak did not appear. Respondent's attorney, Joan Schwarz, of SCHWARZ LAW OFFICE, 701 West Jefferson Street, P.O. Box 230, Stoughton, WI 53589-0203 appeared by telephone. Respondent, Heather L. Zimmerly did not appear. Attorney Bennett Myers, Guardian ad Litem, appeared in person on behalf of the Custody Assessment Team. Attorney David L. Lange appeared on behalf of La Crosse County.

FINDINGS OF FACT

1. The parties have submitted, and the Court has approved, a Stipulation and Order resolving all of the substantive issues regarding custody and placement of the minor child, and dismissing all of Respondent's requests for de novo review in this matter. The only remaining issue is that of the fees and costs of the Custody Assessment Team stemming from work performed subsequent to the recommendation hearing in this matter.
2. This matter has been marked by an unusually high degree of litigation surrounding both the central issues of custody and placement of the minor child as well as a series of related issues raised by Respondent. The multiple requests for de novo review filed by Respondent, including from the order of the Family Court Commissioner providing for the payment of Guardian ad Litem fees, and the

EXHIBIT "A"

12/14/09 Sent to Janine (PR)

the voluminous correspondence and hearings that has attended those requests, are largely responsible for the expense of post-recommendation proceedings in this matter. Because Respondent has exhibited a high degree of contentiousness and litigiousness throughout the post-recommendation phase of this matter, which has led to the escalation of expenses, and because Petitioner has not exhibited any similar litigiousness or contentiousness, the Court finds it reasonable that Petitioner should pay the post-recommendation fees and costs of the Custody Assessment Team.

3. The fees and costs submitted to date by the Guardian ad Litem, Bonnie Sacia, and Kimberly Erickson-Nichols are reasonable under the circumstances of this case.

ORDER

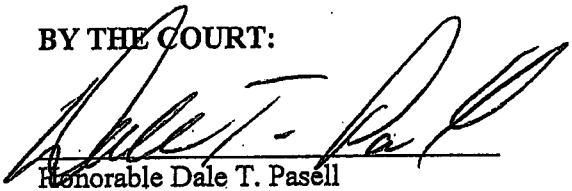
1. The Custody Assessment Team's post-recommendation fees in the total amount of \$3,993.67 shall be paid as follows:

Bosshard Parke Ltd.	\$3,331.17
Mediation and Family Court Services	\$225.00
Kimberly Erickson-Nichols	\$437.50
c/o Franciscan Skemp Behavioral Health, 212 11th St S, La Crosse 54601	

2. La Crosse County shall direct payment in the amounts above to the respective offices named above. Respondent Heather Stevens shall reimburse La Crosse County for the entire amount disbursed in accordance with arrangements to be established by La Crosse County. La Crosse County will be granted judgment for any such amounts.
3. Effective immediately, the Custody Assessment Team is released from its duties, and Attorney Bennett Myers, BOSSHARD PARKE LTD., is discharged as Guardian ad Litem for the minor child.

Dated at La Crosse, Wisconsin this 24 day of August, 2009 *nunc pro tunc* August 3, 2009.


BY THE COURT:


Honorable Dale T. Pasell
Circuit Court Judge

B104 (FORM 104) (08/07)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS La Crosse County, 400 N. 4th St, La Crosse, WI 54601	DEFENDANTS Adam Kenneth Stevens & Heather Leigh Stevens			
ATTORNEYS (Firm Name, Address, and Telephone No.) David L. Lange, Deputy Corporation Counsel, 400 N. 4th Street, La Crosse, WI 54601 (608) 785-9577	ATTORNEYS (If Known) Joan Schwartz 701 W. Jefferson Street, Stoughton, WI 53489-0203 (608) 873-1680			
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Action to determine dischargeability of guardian ad litem fees and fees of expert witness in divorce, child custody and visitation actions in state court under 11 U.S.C. Section 523(a)(5).				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: right;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(6) – Dischargeability (continued) <input checked="" type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </td> </tr> </table>			FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: right;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input checked="" type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23		
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$		
Other Relief Sought				

B104 (FORM 104) (08/07), Page 2

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Adam Kenneth Stevens & Heather Leigh Stevens		BANKRUPTCY CASE NO. 3-09-16401-rdm
DISTRICT IN WHICH CASE IS PENDING Western District of Wisconsin	DIVISION OFFICE	NAME OF JUDGE Martin
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE January 14, 2010	PRINT NAME OF ATTORNEY (OR PLAINTIFF) David L. Lange	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.



Office of Corporation Counsel
County of La Crosse, Wisconsin

County Administrative Center
400 4th Street North • Room 2350 • La Crosse, Wisconsin 54601-3200
(608) 785-9577 • Fax (608) 785-5689
www.co.la-crosse.wi.us

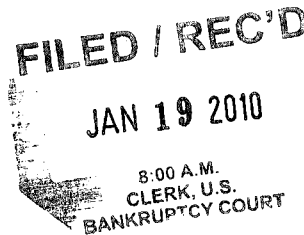
William A. Shepherd
Corporation Counsel

David L. Lange
Deputy
Corporation Counsel

Megan L. DeVore
Assistant Deputy
Corporation Counsel

January 14, 2010

Clerk of US Bankruptcy Court
120 N. Henry Street
PO Box 548
Madison, WI 53703



Re: Adam Kenneth Stevens & Heather Leigh Stevens Bankruptcy
Case No. 3-09-16401-rdm

Dear Clerk:

Enclosed please find Adversary Proceeding Cover Sheet and original and five copies of the Complaint to Determine Dischargeability of Debt. Please file the same. Also enclosed is a check in the amount of \$250 for the filing fee.

Very truly yours,

David L. Lange
Deputy Corporation Counsel

DLL/sll

Enclosures